Supreme Court, U.S.
FILED
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NO. (3)

91-57

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1991

IRENE B. WOFFORD,

Petitioner

Versus

DEPARTMENT OF PUBLIC SOCIAL SERVICES
COUNTY OF LOS ANGELES,
STATE OF CALIFORNIA

Respondent

PETITION FOR WRIT OF CERTIORARI TO THE
COURT OF APPEAL OF THE SECOND APPELLATE
DISTRICT, FOURTH DIVISION
STATE OF CALIFORNIA

PETITIONER'S REPLY BRIEF

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51pp

QUESTIONS

1. DOES RESPONDENT HAVE THE RIGHT TO CHANGE THE RULES OF THE U.S. SUPREME COURT IN ARGUING THAT PETITIONER'S WRIT OF CERTIORARI WAS DOCKETED IN AN "UNTIMELY" MANNER ON JULY 8, 1991 AFTER THE "STATE COURT OF LAST RESORT" IN CALIFORNIA DENIED ON APRIL 10, 1991 PETITIONER'S REQUEST TO REVIEW THE WOFFORD CASE AND DENIED ON APRIL 24, 1991 HER REQUEST TO VIEW AND COPY HER MINOR SON'S RECORDS?
2. DOES THE STATE OF CALIFORNIA HAVE THE RIGHT TO CHANGE THE CONSTITUTION OF THE UNITED STATES BY TAKING AND DETAINING NON-ABUSED AND WELL-CARED-FOR MINOR JOHN DAVID WOFFORD ON NEW 1989 LAW CODE WIC 300(a)?
3. DOES THE STATE OF CALIFORNIA HAVE THE RIGHT TO CHANGE THE CONSTITUTION OF THE UNITED STATES BY TAKING AND DETAINING NON-ABUSED AND WELL-CARED-FOR MINOR JOHN DAVID WOFFORD ON **REPEALED** 1987 LAW CODE WIC 300(a) WHICH IN NO WAY RESEMBLES NEW LAW CODE WIC 300(a) EFFECTIVE JANUARY 1, 1989?

INTERESTED PARTIES

RESPONDENTS:

1. **SUPREME COURT OF THE STATE OF CALIFORNIA (OFFICE: COUNTY OF LOS ANGELES)**
   300 South Spring Street
   Los Angeles, California 90013
   (214) 736-2902

2. **COURT OF APPEAL, IN THE COUNTY OF LOS ANGELES, IN THE STATE OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION FOUR**
   300 South Spring Street
   Los Angeles, California 90013
   (214) 736-2652

3. **JUVENILE DEPENDENCY COURT OF THE COUNTY OF LOS ANGELES, IN THE STATE OF CALIFORNIA, ADMINISTRATIVE SECTION**
   Attn: Honorable Presiding Judge
   210 West Temple Street
   Los Angeles, California 90013
   (214) 974-5851

4. **JUVENILE DEPENDENCY COURT, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, DEPT. 237**
   6280 Sylmar Avenue, Room G-101
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   (818) 374-3014

5. **COUNTY COUNSEL, COUNTY OF LOS ANGELES**
   Attn: Joe Ben Hudgens, Esq.
   6280 Sylmar Avenue, C-104
   Van Nuys, California 91401
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PETITIONER:

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6. Suspected Child Abuse Report 11166PC, 1/4/88. Signed by Dr. Robert John Parsons, Ph.D., Clinical Director, Psychology, Pacific Clinics.

7. County of Los Angeles Services Activity Log, Department of Children's Services, 4/30/87.

8. Department of Children's Services File 20, 7/29/87.

9. CAL.APP.3DIST.1985. WEST'S ANN.CAL.CIV. CODE 232, 232(a)(2). Finding of dependency under West's Ann.Cal.Welf.&Inst. Code 300(a).

OPINIONS OF LOWER COURTS

Respondent is attempting to include the November 17, 1989 Court of Appeal denial of a totally separate appeal made by Petitioner (which Petitioner did not take to the California Supreme Court) with Petitioner's appeal that was denied by the Court of Appeal on January 22, 1991. This denial of Petitioner's appeal on January 22, 1991 by the Court of Appeal is the denial which Petitioner did take to the California Supreme Court--the "State Court of last resort".

Petitioner followed Rule 13.1 of the U.S. Supreme Court since on April 10, 1991, the Supreme Court of the State of California denied discretionary review of the case. Petitioner then filed a Writ of Certiorari with the U.S. Supreme Court which was docketed in a "timely" manner on July 8, 1991--within less than 90 days from the date of denial by the California State Supreme Court.

CONSTITUTIONAL RIGHTS VIOLATED

AMENDMENT I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right to the people peaceably to assemble, and to petition the government for a redress of grievances.

AMENDMENT V

No person shall be...deprived of life, liberty, or property, without due process of law....

AMENDMENT XIV

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

I. STATEMENT OF THE CASE

On April 7, 1987, Petitioner's two minor children, 14-year-old John David Wofford (hereinafter referred to as John David) and 16-year-old Irene Donna Wofford (hereinafter referred to as Irene Donna), were enticed to run away from home by their 23-year-old sister, Sharon Wofford (hereinafter referred to as Sharon), so they could apply for SSI, a form of welfare. (Both minors are eligible for SSI due to the fact that they are legally blind.) Their 23-year-old sighted sister, Sharon, was unemployed.

The minors and their sister Sharon told bizarre lies and/or delusions about their parents which were thoroughly checked out by the County of Los Angeles Sheriff's Department, Juvenile Investigations Bureau/Child Abuse Detail, and subsequently the case was cleared and dismissed on April 22, 1987. All of these same false allegations (including the request for "extra security" and the confidentiality of the minors' addresses) were cleared and

dismissed by the Juvenile Court on July 21, 1987, at which time the Court offered Family Reunification Services. My husband and I pled "no contest" to this service offered by the Juvenile Court since the Court refused to permit the minors to return home.

A. Petitioner's Response to "Confidentiality" Order

1. Juvenile Court Ordered "Confidentiality" of Minors' Addresses and Phone Numbers

Respondent states on page 5 of Respondent's Brief: "On June 2, 1987...the court ordered that the minors' address be kept confidential from the parents, and noted that extra security might be necessary for the parties' next court appearance". This order of the Juvenile Court was unknown to either my husband or me for over one year until a Clerk accidentally found this order which was not with the case files. When I learned of this, I immediately petitioned for a copy of it and on August 23, 1988 I filed a request with the Juvenile Court that the minors' addresses and telephone numbers not be kept confidential from their parents. This

information was subsequently filed with the Court of Appeal, Second Appellate District, Division Four, in the State of California, and with the Supreme Court of the State of California (hereinafter referred to as Court of Appeal and California Supreme Court, respectively.

2. Administrative Section of Juvenile Court Gives Petitioner Minors' Numerous Addresses and Phone Numbers

The Respondent stated on page 6 of the Response Brief that "on November 17, 1987, the court reaffirmed that the children's address[es were] to remain confidential". Even though the Juvenile Court did order that the minors' addresses remain confidential from their parents, the Administrative Section of the Juvenile Court, to which the Juvenile Court is responsible, gave me all of the minor's addresses. Minor John David's numerous addresses which the Administrative Section of the Juvenile Court gave me are as follows:

John David Wofford
c/o MacLaren Children's Center
El Monte, California

John David Wofford
c/o Sharon Wofford
550 W. Duarte #40
Monrovia, California 91016

John David Wofford
c/o Sharon Wofford
4921 Cloud Ave.
La Crescenta, California 91214

John David Wofford
c/o Sharon Wofford
162 S. Grandview Ave.
Glendale, California 91201

John David Wofford
c/o Sharon Wofford
Chester Avenue
Pasadena, California

John David Wofford
c/o Fred & Alma Prismantis
2366 Pickens Canyon Rd.
La Crescenta, California 91214

John David Wofford
c/o Human Services Network
10222 Kalua Drive
Sunland, California 91040

David John Wofford
c/o Irene Donna Wofford
435 N. Wilson #5
Pasadena, California 91106

According to the Department of Children's Services, John David now has his own residence. This makes a total of nine different addresses within the unstable environment provided for John David by the Respondent.

a. "Extra Security" Order Effective Only From June 2, 1987 to July 2, 1987

The Administrative Section of the Court understood that the June 2, 1987 Minute Order, which stated that "extra security" might be needed, only lasted until July 2, 1987--until the court hearing. By July 2, 1987, the Administrative Section of the Juvenile Court also understood that the allegations which the minors made against their parents were unfounded and false.

(1) John David Afraid Respondent's Caretakers at MacLaren Hall Were Trying to Kill Him!

Our minors were afraid that <u>everyone</u> was going to "kill" them! This was thoroughly documented in my August 23, 1988 document with its numerous exhibits which were filed with the Juvenile Court and later in the Court of Appeal and the Supreme Court of California.

John David even thought that Children's Services workers at MacLaren Hall (a facility where Los Angeles County places <u>allegedly</u> abused minors), were going to "poison" him

(Juvenile Investigations Bureau/Child Abuse Detail, April 22, 1987). However, the "pill" they gave him was "not restrictive"--it was only a "Vitamin C tablet"!

After July 21, 1987, when all allegations against my husband and me were dismissed, the previous order of confidentiality of our minor's addresses no longer applied.

B. Petitioner Alleges that Respondent Ordered Continued "Confidentiality" to Cover Up Abuse of John David Wofford While in Foster Care

I am alleging that Respondent ordered that I not be able to obtain any independent medical information about John David so as to cover up child abuse and/or neglect by Respondent's "caretakers", as has been thoroughly documented in my briefs and numerous exhibits filed in California Courts. Following is a brief synopsis.

1. John David's Therapist Reported "Suspected Child Abuse" by Respondent's Court-Appointed Caretaker/Sister Sharon Wofford

Abuse of minor John David by his first Court-appointed Caretaker, 23-year-old sister

Sharon, was reported by Dr. Robert John Parsons, Ph.D.. According to Dr. Parsons,

> David called me through the exchange and reported his sister had been... hitting him and the two of them fighting.

This "suspected child abuse" by John David's Court-appointed caretaker "left bruises on his arm", according to Dr. Parsons (Suspected Child Abuse Report (11166PC) dated 1/4/88).

Also, according to Sharon,

> David's sick and has been in and out of Emergency Room (County of Los Angeles Services Activity Log, Department of Children's Services, 4/30/87).

While in the care of his sister Sharon, medical records stated that John David also had a "Fx lower limb" which was treated on 11/16/87. On 1/4/88, John David was removed from his sister's care and placed in the care of unlicensed foster parents Fred and Alma Prismantis. Then, on 1/21/88, medical records show that John David had "Bone and Cartilage Dis Nec".

2. Glass Fragments Embedded in Minor's Knee Three Weeks Before Respondent's Unlicensed Caretakers Obtain Medical Aid

On May 26, 1988, Mr. and Mrs. Fred Prismantis, John David's new "caretakers", brought him to the Huntington Memorial Hospital in Pasadena. According to medical records, there was "open wound knee/leg complications" and a "fall from building". These Department of Children's Services "caretakers" allowed two pieces of glass to remain embedded in minor John David's knee for three weeks prior to taking him to the hospital where the glass was surgically removed and he was consequently hospitalized for three days. His knee was very tender, and there was a draining abscess.

In 1988, John David was also treated for "joint pain-L/leg", "cellulitis of leg", "Infect/Parasite Dis Nos", "Pediculus Capititis", "Jt derangement Ned-L/Leg", and on 7-11-88 Pasadena Dispensary records show that John David continued to have "pain while walking in full extension" of leg.

3. Legally Blind Minor Almost Killed by Car When Forced to Cross Busy Boulevard While Living in Group Home

At Human Services Network, the new "caretakers" residence, John David was forced to cross a busy boulevard where the speed limit is 45 mph and which had no traffic light or marked crosswalk. John David was subsequently struck by a car and thrown 20 ft. into the air across the road, according to the Police Report. He was transported to Huntington Memorial Hospital by Air Ambulance. He had a displaced shoulder fracture right side and pelvis fracture. John David then had to have brain surgery--a craniotomy evacuation of a subdural hematoma.

After I learned of the above documented instances of "institutionalized abuse and neglect" of John David while in Respondent's "care", the Juvenile Court ordered that I not be allowed to obtain any further independent medical information. (Respondent has not permitted us, the minors' parents, to have any information whatsoever concerning their health,

education and welfare since they were enticed to run away from home on April 7, 1987.)

C. Respondent Lost All Contact With Petitioner's Minors for Weeks!

1. Petitioner Hired Nick Harris Detectives to Locate Her Missing Minors

Regarding "surveillance" of the minors, my husband and I hired Nick Harris Detective Agency only once to put the minors under surveillance in order to find John David and his sisters because Respondent had lost all contact with them! For example, on 7/14/87 the Department of Children's Services attempted to visit the minors at their Duarte Road address.

> A woman said that Irene didn't live there anymore and refused to tell CSW where she was residing.... CSW left message on Sharon Wofford's home phone... (Department of Children's Services File 20, July 14, 1987).

The Department of Children's Services File 20 Records of 7/29/87 state that

> CSW STILL HASN'T HEARD FROM MINORS OR THEIR SISTER! (Department of Children's Services File 20, 7-29-87, emphasis added).

The minors had been lost from Respondent for a number of weeks when Nick Harris

Detectives found Sharon and the minors to be living in La Crescenta on Cloud Street with a live-in boyfriend called "Jack the Ripper", whom Sharon had just met. Sharon Wofford, Respondent's Court-Appointed "caretaker" of minor John David, told the undercover agent that

> ...she [Sharon Wofford] did not live there, was visiting friends, the friends were not home and she did not know the names of her friends. (Report issued by Nick Harris Detectives, Inc. Founded 1906, Older than the F.B.I., signed by Milo A. Speriglio, Director-and-Chief.

At that point, Petitioner informed Respondent of the minors' whereabouts!

D. Juvenile Court and Court of Appeal Disagree on Meaning of "No Contest" Plea by Wofford Parents

On page 8 Respondent stated that "the appellate court pointed out that petitioner was foreclosed by her earlier 'no contest' plea in its October 24th ruling".

This appellate court ruling is in disagreement with the Juvenile Court which twice ordered Family Reunification Services. If the Juvenile Court intended the "no contest"

plea to mean that petitioner was "foreclosed" from regaining custody of her teenage minors, the Juvenile Court would not have ordered "Family Reunification Services".

Petitioner has never agreed to give custody of John David Wofford to the Courts of the State of California. Petitioner only agreed not to contest the Court's offer to provide Family Reunification Services.

II. U.S. SUPREME COURT DID NOT MAKE A MISTAKE IN DOCKETING CASE NO. 91-57

A. Petitioner's Writ of Certiorari Filed in "TIMELY" Manner

In answer to Respondent's implication that the United States Supreme Court made an error by docketing Case No. 91-57, the U.S. Supreme Court obviously did not make such an error. Petitioner followed the Rules of the U.S. Supreme Court and requested her Writ of Certiorari in a "timely" manner.

Respondent stated that Supreme Court Rule 13.1 requires the filing of a petition for Writ of Certiorari within 90 days after the entry of judgment. That is exactly what Petitioner did!

However, Respondent erroneously stated that Petitioner had filed over a year and one-half too late.

Petitioner is within the time limits according to Rule 13.1 of the United States Supreme Court (A1). Petitioner requested a Writ of Certiorari "within 90 days after the entry of the order denying discretionary review". The Supreme Court of California denied its review of the Wofford case on April 10, 1991 and denied my petition to obtain minor John David's records on April 24, 1991 (refer to Petitioner's Petition for Writ of Certiorari, p.2). The docketing of Petitioner's Writ of Certiorari on July 8, 1991 was in a "timely" manner.

Rule 13.1 does not give authority to file a Writ of Certiorari after a case has only been heard by the State Court of Appeal (A1). Rather, the rules of the United States Supreme Court require that prior to filing a petition for a Writ of Certiorari, the petitioner must first go to the "State Court of last resort".

On Petitioner's 1988 appeal from the Juvenile Court to the Court of Appeal, Petitioner did NOT petition the Supreme Court of the State of California (the "State Court of last resort") to review the order of the Court of Appeal made on November 17, 1989. Rather, Petitioner took the case back to the Juvenile Court, hoping to end the case. Respondent's reasoning that Petitioner was over a year and a half late in filing her Writ of Certiorari is therefore totally invalid.

III. 1989 "REPEAL" OF CALIFORNIA WELFARE AND INSTITUTIONS CODE SECTION 300 SUB-DIVISION (a)--THE SUBDIVISION UNDER WHICH JOHN DAVID WOFFORD WAS DETAINED--SHOULD NOT BE CONFUSED WITH THE 1989 "REVISION" OF OTHER SUBDIVISIONS OF WIC 300 (See A6).

John David should not have been detained as a Dependent Child of the Juvenile Court on either the 1987 WIC 300(a) or the new 1989 WIC 300(a). The 1987 WIC 300 subdivision (a) under which John David was first detained on April 8, 1987 was **totally repealed** on January 1, 1989. The new WIC 300 subdivision (a) became effective on January 1, 1989.

Petitioner is not arguing the entirety of the 1989 revision of WIC Section 300 since **only the REPEALED WIC 300(a)** is the subdivision that Petitioner's son, John David, is currently being held as a Dependent Child of the Juvenile Court--even though he will be 19 years old on his next birthdate. WIC 300(a) was repealed because it was not a valid reason to take permanent custody of minors.

This repealed 1987 WIC 300(a) only concerns the "care" and "control" of minors--not physical abuse. However, it is the Respondent who has not properly cared for or controlled John David--a fact I have thoroughly documented and filed with the state courts in California.

A. Respondent Continues to Detain Minor John David Wofford on REPEALED Law Code WIC 300(a)!

On page 9 of Respondent's Brief, Respondent states that

> ...the unpublished opinion suggested, however, that the revisions might serve as a basis for a supplemental petition --i.e., change of circumstances.

The Court of Appeal gave the Juvenile Court the right to determine whether or not the

change in the law (together with the merits of the case) was sufficient to return the minor to the custody of his parents.

In the Wofford case, the merits of the case are that the **Wofford parents are not guilty of, nor are they charged with, child abuse and/or neglect, abandonment or wrongdoing of any kind.** The minors were exceptionally well-cared for in their parents home in ever way. Their parents love them very much and continually requested custody of them since April 8, 1987!

IV. INTENT OF CALIFORNIA LEGISLATURE REGARDING NEW 1989 WIC 300(a)

The intent of the California Legislature was NOT that non-abused children who were never abused physically, sexually, or emotionally; who were never neglected, never exploited; and who were protected by their parents from risk of such harm, be taken away from their parents to become Dependent Children of the Juvenile Court. "Nothing in this section is intended to disrupt the family unnecessarily or to intrude inappropriately into family life" (WIC 300). The intent of the Legislature is to keep

families together, not to divide them--as the State of California has divided the Wofford family.

The State of California took a NON-abused minor and allowed him to be extremely abused while in their "care"!

V. NO LEGAL GUIDELINES FOR DETAINING MINOR ON "FAMILY DYSFUNCTION"

Petitioner has never at any time conceded that a "family dysfunction" was acceptable grounds for jurisdiction of minor John David. Petitioner has continually requested custody of John David since April 8, 1987! What appeared to be a "family dysfunction" was, in fact, the mental illness of the minors. In reality, this was not a family dysfunction.

There is no law defining the legal guidelines of a "family dysfunction". There is no such existing law in the State of California that says the Juvenile Court can take permanent custody of a minor on a "family dysfunction", which in the Wofford case the Juvenile Court stated was due to the allegations of the minors

against their parents, which were PROVED to be outright lies.

There are, however, legal grounds for innocent parents to have custody of their minors (C.C. 7004, infra, 413; 91; Constitution of the United States, Amendments 1, 5, and 14). Custody of minors should remain with their parents unless they are proved to be child abusers by clear and convincing evidence (C.C. 232(c) 28 C3d 919; Santosky vs Kramer (1982) 455 U.S. 745, 102 S.Ct. 1388,71 L.Ed.2d 599; 102 S.Ct. 1402, 71 L.Ed. 2d 617).

A. BIZARRE LIES and/or DELUSIONS of John David and Sisters Not Legal Grounds for Detaining and Retaining Jurisdiction of Minor by Court

There are absolutely no legal grounds for taking custody of the Wofford minors because they told lies about their parents in order to live with their unemployed sister so she could apply for welfare money from the State.

VI. JUSTIFICATION FOR GRANTING CERTIORARI

Recognizing that the preferred types of cases are not exhaustive, petitioner submits that the issue of child abuse in this nation is

an extremely important issue--especially when a State can detain a non-abused minor and then subject him to extreme and even life-threatening abuse and neglect in the homes of State-approved "caretakers". (It should be noted that Respondent can receive funding of up to $6,000 per month for each minor detained by the County in group homes, according to "California Stories", Channel 28 in Los Angeles).

VII. CONCLUSION

I am requesting that my Writ of Certiorari be granted for the following reasons:

1. The State of California has subjected our entire family to incredible anguish and suffering by violating my husband's and my Constitutional Rights to rear, educate, and care for our son, John David, who was always well-cared for by his innocent parents prior to being detained by Respondent.

2. The State of California should be informed that it is illegal to take custody of non-abused minors and place them in life-

threatening environments where they become abused and neglected minors under Respondent's foster care program. And the other states must also be made aware that such illegal actions will not be tolerated in this free society. If all the states in the Union followed the example of the State of California by taking non-abused minors like John David into State care, the cost to this nation could be billions of dollars. More importantly, it would take way the constitutionally protected rights of all American parents to rear, nurture, educate, care for and provide for their children!

Respectfully Submitted,

IRENE B. WOFFORD

APPENDIX

SUPREME COURT RULE 13.1

A petition for a writ of certiorari to review a judgment in any case, civil or criminal, entered by a **state court of last resort**, a United States court of appeals, or the United States Court of Military Appeals **shall be deemed in time when it is filed with the Clerk of this Court within 90 days after the entry of the judgment.** A petition for a writ of certiorari seeking review of a judgment of a lower state court which is subject to discretionary review by the state court of last resort shall be deemed in time when it is filed with the Clerk within 90 days after the entry of the order denying discretionary review.

COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT JUVENILE INVESTIGATIONS BUREAU/CHILD ABUSE DETAIL

04/22/87 -- "On 05/01/87 at 1300 hours, I spoke with Deanne Tilton (818-575-4362), the wife of Dr. Michael Durfee, Director of Health

Services. Deanne, who works at MacLaren Hall, and her husband became personally involved in this case through a friend of Sharon Wofford's who is involved with Child Help. After Donna and David were detained then released into their sister's custody, Sharon and the kids came to the Durfee's home in La Canada and spoke with Deanne and Michael about the case. Deanne also received a dark red tablet (Evidence Held #1) from David, who indicated that someone at MacLaren Hall gave it to him before he got on the bus to go to the dependency court hearing. Instead of ingesting the tablet, he hid it under the cast which was on his left hand.

"Evidence Held #1, one dark red tablet, was booked into evidence and submitted to the Sheriff's Crime Lab for analysis. Preliminary findings revealed that the tablet in question was not restrictive and is in fact, Vitamin C".

1987 WELFARE AND INSTITUTIONS CODE 300

300. Persons subject to jurisdiction

Any person under the age of 18 years who comes within any of the following descriptions is within the jurisdiction of the juvenile court which may adjudge that person to be a dependent child of the court:

(a) Who is in need of proper and effective parental care or control and has no parent or guardian, or has no parent or guarding willing to exercise or capable of exercising care or control, or has no parent, guardian willing to exercise or capable of exercising care or control, or has no parent, guardian or custodian actually exercising care or control.

(b) Who is destitute, or who is not provided with the necessities of life, or who is not provided with a home or suitable place of abode, except that no person may be adjudged a dependent child solely due to the lack of an emergency shelter for the family.

(c) Who is physically dangerous to the public because of a mental or physical deficiency, disorder, or abnormality.

(d) Whose home is an unfit place for him or her by reason of neglect, cruelty, depravity, or physical abuse of either of his or her parents, or of his or her or other person in whose custody or care he or she is.

(e) Who is under the age of three and whose home is an unfit place for him or her as a result of severe physical abuse of the minor by a parent, or by any person known by the parent, if the parent knew or reasonably should have known that that person was physically abusing the minor. For the purpose of this section, severe physical abuse which causes physical trauma of sufficient severity that, if left untreated, it would cause permanent physical disfigurement, permanent physical disability, or death; any single act of sexual abuse which causes significant swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising,

significant external or internal swelling, bone fracture, or unconsciousness.

(f) Who has been freed for adoption from one or both parents for 12 months by either relinquishment or termination of parental rights and for whom an interlocutory decree has not been granted pursuant to Section 224n of the Civil Code or an adoption petition has not been granted.

(g) It is the intention of the legislature in enacting the amendments to subdivision (a) enacted at the 1985-86 Regular Session, to assure that courts, in making a determination pursuant to subdivision (a) shall not focus upon the fact that a parent has a physical disability. The Legislature declares that a physical disability, such as blindness or deafness, is no bar to the raising of happy and well-adjusted children and that a court's determination pursuant to subdivision (a) should center upon whether a parent's disability prevents him or her from exercising care and control.

300. Minors subject to jurisdiction; legislative intent and declarations; guardian defined duration

Any minor who comes within any of the following descriptions is within the jurisdiction of the juvenile court which may adjudge that person to be a dependent child of the court.

(a) The minor has suffered, or there is a substantial risk that the minor will suffer, serious physical harm inflicted nonaccidentally upon the minor by the minor's parent or guardian. For the purposes of this subdivision, a court may find there is a substantial risk of serious future injury based on the manner in which a less serious injury was inflicted, a history of repeated inflictions of injuries on the minor or the minor's siblings, or a combination of these and other actions by the parent or guardian which indicate the child is at risk of serious physical harm. For purposes of this

subdivision, "serious physical harm" does not include reasonable and age appropriate spanking to the buttocks where there is no evidence of serious physical injury.

(b) The minor has suffered, or there is a substantial risk that the minor will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the minor from the conduct of the custodian with whom the minor has been left, or by the willful or negligent failure of the parent or guardian to provide the minor with adequate food, clothing, shelter, or medical treatment, or by the inability of the parent or guardian to provide regular care for the minor due to the parent's or guardian's mental illness, developmental disability, or substance abuse. No minor shall be found to be a person described by this subdivision solely due to the lack of an emergency shelter for the family. Whenever it is alleged that a minor comes within the jurisdiction of the court on the

basis of the parent's or guardian's willful failure to provide adequate medical treatment or specific decision to provide spiritual treatment through prayer, the court shall give deference to the parent's or guardian's medical treatment, nontreatment, or spiritual treatment through prayer alone in accordance with the tenants and practices of a recognized church or religious denomination, by an accredited practitioner thereof, and shall not assume jurisdiction unless necessary to protect the minor from suffering serious physical harm or illness. In making its determination, the court shall consider (1) the nature of the treatment proposed by the parent or guardian (2) the risks to the minor posed by the course of treatment or nontreatment proposed by the parent or guardian (3) the risk, if any, of the course of treatment being proposed by the petitioning agency, and (4) the likely success of the courses of treatment or nontreatment proposed by the parent or guardian and agency. The minor shall continue to be a dependent

child pursuant to this subdivision only so long as is necessary to protect the minor from risk of suffering serious physical harm or illness.

(c) The minor is suffering serious emotional damage, or is at substantial risk of suffering serious emotional damage, evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, as a result of the conduct of the parent or guardian or who has no parent or guardian capable of providing appropriate care. No minor shall be found to be a person described by this subdivision if the willful failure of the parent or guardian to provide adequate mental health treatment is based on a sincerely held religious belief and if a less intrusive judicial intervention is available.

(d) The minor has been sexually abused, or there is a substantial risk that the minor will be sexually abused, as defined in subdivision (b) of Section 11165 of the Penal Code, by his or her parent or guardian or a member of his or her household, or the parent or guardian has

failed to adequately protect the minor from sexual abuse when the parent or guardian knew or reasonably should have known that the minor was in danger of sexual abuse.

(e) The minor is under the age of five and has suffered severe physical abuse by a parent, or by any person known by the parent, if the parent knew or reasonably should have known that the person was physically abusing the minor. For the purposes of this subdivision, "severe physical abuse" means any of the following: any single act of abuse which causes physical trauma of sufficient severity that, if left untreated, would cause permanent physical disfigurement, permanent physical disability, or death; any single act of sexual abuse which causes significant bleeding, deep brushing, or significant external or internal swelling; or more than one acct of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness. A minor may not be removed from the physical custody of his or

her parent or guardian on the basis of a finding of severe physical abuse unless the probation officer has made an allegation of severe physical abuse pursuant to Section 332.

(f) The minor's parent or guardian has been convicted of causing the death of another child through abuse or neglect.

(g) The minor has been left without any provision for support; or the minor's parent has been incarcerated or institutionalized and cannot arrange for the care of the minor; or a relative or other adult custodian with whom the child resides or has been left is unwilling or unable to provide care or support for the child, the whereabouts of the parent is unknown, and reasonable efforts to relocate the parent have been unsuccessful.

(h) The minor has been freed for adoption from one or both parents for 12 months by either relinquishment or termination of parental rights and an interlocutory decree has not been granted pursuant to Section 224n of

the Civil Code or an adoption petition has not been granted.

(i) The minor has been subjected to an act or acts of cruelty by the parent or guardian or a member of his or her household, or the parent or guardian has failed to adequately protect the minor from an act or acts of cruelty when the parent or guardian knew or reasonably should have known that the minor was in danger of being subjected to an act or acts of cruelty.

(j) The minor's sibling has been abused or neglected as defined in subdivision (a),(b), (d),(e), or (i), and there is a substantial risk that the minor will be abused or neglected, as defined in those subdivisions. The court shall consider the circumstances surrounding the abuse or neglect of the sibling, the age and gender of each child, the nature of the abuse or neglect of the sibling, the mental condition of the parent or guardian, and any other factors the court considers

probative in determining whether there is a substantial risk to the minor.

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300. Minors subject to jurisdiction; legislative intent and declarations; guardian defined duration

Any minor who comes within any of the following descriptions is within the jurisdiction of the juvenile court which may adjudge that person to be a dependent child of the court.

(a) The minor has suffered, or there is a substantial risk that the minor will suffer, serious physical harm inflicted nonaccidentally upon the minor by the minor's parent or guardian. For the purposes of this subdivision, a court may find there is a substantial risk of serious future injury based on the manner in which a less serious injury was inflicted, a history of repeated inflictions of injuries on the minor or the minor's siblings, or a combination of these and

other actions by the parent or guardian which indicate the child is at risk of serious physical harm. For purposes of this subdivision, "serious physical harm" does not include reasonable and age appropriate spanking to the buttocks where there is no evidence of serious physical injury.

(b) The minor has suffered, or there is a substantial risk that the minor will suffer, serious physical harm or illness, as a result of the failure of his or her parent or guardian to adequately supervise or protect the minor, or the willful or negligent failure of the minor's parent or guardian to adequately supervise or protect the minor from the conduct of the custodian with whom the minor has been left, or by the willful or negligent failure of the parent or guardian to provide the minor with adequate food, clothing, shelter, or medical treatment, or by the inability of the parent or guardian to provide regular care for the minor due to the parent's or guardian's mental illness, developmental disability, or

substance abuse. No minor shall be found to be a person described by this subdivision solely due to the lack of an emergency shelter for the family. Whenever it is alleged that a minor comes within the jurisdiction of the court on the basis of the parent's or guardian's willful failure to provide adequate medical treatment or specific decision to provide spiritual treatment through prayer, the court shall give deference to the parent's or guardian's medical treatment, nontreatment, or spiritual treatment through prayer alone in accordance with the tenants and practices of a recognized church or religious denomination by an accredited practitioner thereof, and shall not assume jurisdiction unless necessary to protect the minor from suffering serious physical harm or illness. In making its determination, the court shall consider (1) the nature of the treatment proposed by the parent or guardian (2) the risks to the minor posed by the course of treatment or nontreatment proposed by the parent or guardian (3) the risk, if any, of the

course of treatment being proposed by the petitioning agency, and (4) the likely success of the courses of treatment or nontreatment proposed by the parent or guardian and agency. The minor shall continue to be a dependent child pursuant to this subdivision only so long as is necessary to protect the minor from risk of suffering serious physical harm or illness.

(c) The minor is suffering serious emotional damage, or is at substantial risk of suffering serious emotional damage, evidenced by severe anxiety, depression, or withdrawal, untoward aggressive behavior toward self or others, as a result of the conduct of the parent or guardian. No minor shall be found to be a person described by this subdivision if the willful failure of the parent or guardian to provide adequate mental health treatment is based on a sincerely held religious belief and if a less intrusive judicial intervention is available.

(d) The minor has been sexually abused, or there is a substantial risk that the minor will

be sexually abused, as defined in Section 11165.1 of the Penal Code, by his or her parent or guardian or a member of his or her household, or the parent or guardian has failed to adequately protect the minor from sexual abuse when the parent or guardian knew or reasonably should have known that the minor was in danger of sexual abuse.

(e) The minor is under the age of five and has suffered severe physical abuse by a parent, or by any person known by the parent, if the parent knew or reasonably should have known that the person was physically abusing the minor. For the purposes of this subdivision, "severe physical abuse" means any of the following: any single act of abuse which causes physical trauma of sufficient severity that, if left untreated, would cause permanent physical disfigurement, permanent physical disability, or death; any single act of sexual abuse which causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of

which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness. A minor may not be removed from the physical custody of his or her parent or guardian on the basis of a finding of severe physical abuse unless the probation officer has made an allegation of severe physical abuse pursuant to Section 332.

(f) The minor's parent or guardian has been convicted of causing the death of another child through abuse or neglect.

(g) The minor has been left without any provision for support; or the minor's parent has been incarcerated or institutionalized and cannot arrange for the care of the minor; or a relative or other adult custodian with whom the child resides or has been left is unwilling or unable to provide care or support for the child, the whereabouts of the parent is unknown, and reasonable efforts to relocate the parent have been unsuccessful.

(h) The minor has been freed for adoption from one or both parents for 12 months by

either relinquishment or termination of parental rights or an adoption petition has not been granted.

(i) The minor has been subjected to an act or acts of cruelty by the parent or guardian or a member of his or her household, or the parent or guardian has failed to adequately protect the minor from an act or acts of cruelty when the parent or guardian knew or reasonably should have known that the minor was in danger of being subjected to an act or acts of cruelty.

(j) The minor's sibling has been abused or neglected as defined in subdivision (a),(b), (d),(e), or (i), and there is a substantial risk that the minor will be abused or neglected, as defined in those subdivisions. The court shall consider the circumstances surrounding the abuse or neglect of the sibling, the age and gender of each child, the nature of the abuse or neglect of the sibling, the mental condition of the parent or guardian, and any other factors the court considers

probative in determining whether there is a substantial risk to the minor.

Suspected Child Abuse Report (11166PC dated 1/4/88). "David called me through the exchange and reported his sister had been acting strange. This included hitting him and the two of them fighting - Although this left bruises on his arm the sequence of events are unclear. David thought his sister may have been high at the time". (Signed by Dr. Robert John Parsons, Ph.D., Clinical Director, Psychology, Pacific Clinics.)

"David's sick and has been in and out of Emergency Room" (County of Los Angeles Services Activity Log, Department of Children's Services, 4/30/87).

"CSW STILL HASN'T HEARD FROM MINORS OR THEIR SISTER!" (Department of Children's Services File 20, 7/29/87).

CAL.APP.3DIST.1985. WEST'S ANN.CAL.CIV.CODE 232, 232(a)(2). Finding of dependency under West's Ann.Cal.Welf.&Inst. Code **300(a)**

...Parent-child relationship can be permanently severed only in cases of demonstrable extreme neglect.